

EX PARTE COMMENT

**BROOKS, PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.**

**ATTORNEYS AT LAW**

**RALEIGH, NORTH CAROLINA**

MAILING ADDRESS  
POST OFFICE BOX 1800  
RALEIGH, N.C. 27602

OFFICE ADDRESS  
SUITE 1600  
FIRST UNION CAPITOL CENTER  
150 FAYETTEVILLE STREET MALL  
RALEIGH, N.C. 27601

TELEPHONE 919-839-0300  
FACSIMILE 919-839-0304

L.P. McLENDON, JR.  
HUBERT HUMPHREY  
EDGAR B. FISHER, JR.  
W. ERWIN FULLER, JR.  
JAMES T. WILLIAMS, JR.  
WADE H. HARGROVE  
M. DANIEL McGINN  
MICHAEL D. MEEKER  
WILLIAM G. McNAIRY  
EDWARD C. WINSLOW III  
HOWARD L. WILLIAMS  
GEORGE W. HOUSE  
WILLIAM P.H. CARY  
REID L. PHILLIPS  
ROBERT A. SINGER  
JOHN H. SMALL  
RANDALL A. UNDERWOOD  
S. LEIGH RODENBOUGH IV  
WILLIAM G. ROSS, JR.  
MARK J. PRAK  
JILL R. WILSON  
MARC D. BISHOP  
JIM W. PHILLIPS, JR.  
MACK SPERLING  
JEFFREY E. OLEJNIK  
MARK DAVIDSON  
MELISSA H. WEAVER  
JAMES R. SAINTSING  
JOHN W. ORMAND III  
ROBERT J. KING III

STEVEN J. LEVITAS  
V. RANDALL TINSLEY  
JOHN R. ARCHAMBAULT  
S. KYLE WOOSLEY  
WILLIAM C. SCOTT  
DANIEL M. SROKA  
FORREST W. CAMPBELL, JR.  
MARCUS W. TRATHEN  
JEAN C. BROOKS  
ANNE C. BRENNAN  
ELLEN P. HAMRICK  
ALLISON M. GRIMM  
JAMES C. ADAMS, II  
ELIZABETH S. BREWINGTON  
JOHN K. EASON  
H. ARTHUR BOLICK II  
NATASHA RATH MARCUS  
JOHN M. CROSS, JR.  
JENNIFER K. VAN ZANT  
W. KEARNS DAVIS, JR.  
TRACEY BANKS COAN  
DAVID W. SAR  
KATHLEEN M. THORNTON  
BRIAN J. McMILLAN  
JENNIFER L. BOLICK  
DAVID KUSHNER  
DEREK J. ALLEN  
ELIZABETH V. LAFOLLETTE  
ERIN L. ROBERTS  
GINGER S. SHIELDS

February 2, 1998

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

Re: ET Docket No. 97-214

Dear Ms. Salas:

Enclosed herewith, for filing on behalf of Hearst-Argyle Television, Inc. is an original and two copies of its Ex Parte Comments in the above-referenced docket.

Please direct any questions that you may have regarding these comments to the undersigned.

Sincerely,

BROOKS, PIERCE, McLENDON,  
HUMPHREY & LEONARD, L.L.P.

Mark J. Prak

MJP/kws

Enclosure

c:\word\hearst\general\ms2298

RECEIVED

FEB - 3 1998

FCC MAIL ROOM

FOUNDED 1897

AUBREY L. BROOKS (1872-1958)  
W.H. HOLDERNESS (1904-1965)  
L.P. McLENDON (1890-1968)  
KENNETH M. BRIM (1898-1974)  
C.T. LEONARD, JR. (1929-1983)  
CLAUDE C. PIERCE (1913-1988)  
THORNTON H. BROOKS (1911-1997)  
G. NEIL DANIELS (1911-1997)

GREENSBORO OFFICE  
2000 RENAISSANCE PLAZA  
230 NORTH ELM STREET  
GREENSBORO, N.C. 27401

WASHINGTON OFFICE  
2000 L STREET N.W., SUITE 200  
WASHINGTON, D.C. 20036

*Via Overnight Courier*

No. of Copies rec'd  
List ABCDE

022

cc: Chairman William E. Kennard  
Commissioner Susan Ness  
Commissioner Harold Furchtgott-Roth  
Commissioner Michael K. Powell  
Commissioner Gloria Tristani  
Susan Fox  
James L. Casserly  
Paul E. Misener  
Jane E. Mago  
Rick Chessen

Before the  
Federal Communications Commission  
Washington, D.C. 20554

RECEIVED

FEB - 3 1998

FCC MAIL ROOM

In the Matter of )  
)  
Amendment of Part 2 of the )  
Commission's Rules to Allocate the )  
455-456 MHz and 459-460 MHz Bands )  
to the Mobile Satellite Service )

ET Docket No. 97-214

To: The Commission

*Two copies of these Ex Parte Comments have been submitted to the Secretary in compliance with 47 C.F.R. § 1.1206*

**Ex Parte Comments of Hearst-Argyle Television, Inc.**

Pursuant to 47 C.F.R. §§ 1.419(b), 1.1206, Hearst-Argyle Television, Inc. ("HATV"), by its attorneys, hereby files the following informal ex parte comments in response to the Notice of Proposed Rule Making ("Notice"), FCC 97-363, released October 14, 1997, issued in the above-captioned proceeding.

The Notice proposes, *inter alia*, to allow non-voice, non-geostationary mobile satellite services, referred to as "Little LEO" satellite systems for the low-Earth orbiting satellites that implement these services, to use the 455-456 MHz band on a co-primary basis with the remote pick-up broadcast operations of broadcasters such as HATV. The Notice specifically invited comment on the feasibility of spectrum sharing between Little LEO transmissions and terrestrial remote pick-up broadcast operations. This proposal creates the potential for unpredictable and unacceptable interference with HATV's and other broadcasters' operations. Accordingly, HATV urges the Commission to reject such spectrum sharing.

HATV owns and operates numerous television and radio stations. Through affiliates, it controls more than 40 licenses in the 455-456 MHz band and its companion, the 450-451 MHz band. These frequencies are the primary link for news field operations in each city of license. For nearly 20 hours every day, from before sunrise until late into the night, HATV stations produce and broadcast many hours of local news. Spot news coverage, traffic reports, and remote broadcast coordination are each controlled by HATV's 455-456 MHz radio systems. These systems create an interconnected web between the news desks and field crews. Because local news is aired "live," these communications must be absolutely reliable and free from interference.

Serious potential interference also exists for the operations of HATV's radio stations. Remote Pick-up Units ("RPU's") serve as the program link back to the stations for sporting events and for live reports for hourly newscasts. In addition, in the State of Maryland, Emergency Alert System ("EAS") communications between the Maryland Emergency Management Agency and one of HATV's stations occur in the 455-456 MHz band. In fact, this station serves as the primary control point for the State's EAS efforts. These frequencies allow the timely broadcast of emergency information, including direct on-air access, to the citizens of the State of Maryland. Interference to this vital communications link, no matter how short in duration, is simply unacceptable.

The Notice suggests that the Commission was swayed in proposing this spectrum sharing by a staff analysis that concluded that the 455-456 MHz band is used "only intermittently" by broadcasters. *See* Notice at ¶ 12. If this characterization of the use as "intermittent" refers merely to the "basic" operations mode, then the statement is unexceptional. Were this characterization complete and accurate, then the rationale for spectrum sharing would possess some merit, both for broadcasters and for all radio users, including business and public safety. However, the nature of

newsgathering forces HATV and other broadcasters to react to, and be prepared for, community events on an essentially continuous basis. Obviously the events requiring attention are both temporally and logistically unpredictable. On any given day, vital information may have to be relayed—at any time of the day—from the farthest coverage area or from just two blocks away. Moreover, the current frequencies are already overcrowded with users, requiring HATV to use, and to receive permission from, local frequency coordinators. With all of this activity, we find it extremely doubtful that Little LEO systems could find channels to use and then subsequently release them without causing any harmful interference to HATV's broadcast news operations.

Another serious potential problem with the proposed reallocation is the impact it will have on the existing 450-451 MHz band repeater systems that HATV currently has in operation. These repeaters improve both the range and dependability of the communications systems upon which HATV relies. Handheld and mobile units operating in the 455-456 MHz band access these repeaters, which then, in turn, re-broadcast on a 450-451 MHz band "receive" channel. Most of HATV's stations employ repeater receive antennas attached to the existing TV transmission antennas. These antennas are usually between several hundred and one thousand feet above the ground. HATV has engineered its systems in this way in order to extend the range and to improve the reliability of its communications systems overall. This scheme also makes the repeater radio receivers more sensitive. However, any use of the assigned frequencies by Little LEO systems will block reception by HATV's repeaters and therefore unacceptably disrupt the communications system.

Finally, a Little LEO system may cause interference by its method of channel allocation. If operated as proposed, it will seek out a "quiet" frequency, use it, and then release it when finished. Mobile transmitters and handheld units that relay through repeaters operate at very low transmission

power. We believe it is highly doubtful, even with the best technology, that the transmissions from such units could be effectively detected by low-Earth orbiting satellites. Interference to vital field communications will necessarily exist until the Little LEO system releases the frequency. The Commission stated in the Notice that it would not countenance harm to the signal integrity of broadcast programming material by Little LEO operations, *see* Notice at ¶ 12, but that is precisely what will happen should this spectrum sharing proposal be implemented.

### **Conclusion**

HATV recommends that the Commission find a different method to accommodate Little LEO technology. The existing Part 74 device radio spectrum is a busy place. Overcrowding has been commonplace since the 1970s and, as it currently exists, it already relies on volunteer frequency coordination in order to function without interference. HATV's business, like that of other broadcasters, depends on the ability to communicate quickly and reliably with its field crews and its traffic planes and helicopters, as well as with state and local government agencies. Interference, even of a random and seemingly time-limited nature, will create an adverse and unnecessary impact on HATV's, and other broadcasters', operations each and every day. Loss of contact via a repeater system is likely to be the most common problem, and this will effectively render the HATV communications network undependable and unreliable. Also very troubling is the potential for any interference with vital Emergency Alert System communications.

We see no way that Little LEO operations can be co-primary users of the 455-456 MHz band, nor do we see any effective technical sharing requirement that would sufficiently protect HATV's,

and other broadcasters', essential communications systems from interference. HATV accordingly urges the Commission to reject the 455-456 MHz band spectrum sharing proposed in the Notice.

Respectfully submitted,

**HEARST-ARGYLE TELEVISION, INC.**

By 

Wade H. Hargrove

Mark J. Prak

David Kushner

Its Attorneys

BROOKS, PIERCE, McLENDON,  
HUMPHREY & LEONARD, L.L.P.  
Post Office Box 1800  
Raleigh, North Carolina 27602

January 29, 1998